

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 557 of 2007

Date of decision : November 15, 2007

Rajinderpal

..... Petitioner

through Mr.R.D.Bawa, Advocate

v.

The Commissioner (Appeals), Patiala Division Patiala & another

..... Respondents

through Mr.Vikas Chatrath, Advocate,

**CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA**

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

RAJIVE BHALLA,J

Challenge in the writ petition is to an order, dated 25.8.2006, passed by the Commissioner (Appeals), Patiala Division, Patiala, whereby the appeal, filed by the Punjab State Electricity Board, has been accepted, and the order, dated 11.3.2003, passed by the Chief Electrical Inspector, has been set aside.

The petitioner, a consumer of the respondent-electricity board, was granted an electricity connection, bearing Account No.F2-22MS with the sanctioned load of 53.747 KW. On 3.6.2002, the Sub Divisional Officer inspected the electricity meter and reported that one potential wire of the Blue CT was disconnected. On the basis of the said report, the petitioner's account was re-examined for the period January 2002 to June

2002 and the respondent-board raised a supplementary demand of Rs.92,866/-, vide memo. No.797, dated 11.6.2002 for the additional consumption of 31237 units.

The petitioner impugned the aforementioned demand before the Consumer Disputes Redressal Committee, constituted by the respondent-board. In its meeting, dated 24.7.2002, the committee rejected the petitioner's objections. The petitioner filed an appeal, before the Chief Electrical Inspector, under Section 26(6) of the Indian Electricity Act, 1910 (for short herein after referred to as "the Act"), by depositing a sum of Rs.31,000/-, being one-third of the amount demanded by the respondent-board. The Chief Electrical Inspector, vide order, dated 11.3.2003, allowed the appeal, after recording a finding that there was no reduction in the consumption of electricity, during the period in question and rather the consumption of electricity had increased, when compared with the consumption, for the corresponding period during 1999, 2000 and 2001.

The respondent-board filed an appeal, before the Commissioner (Appeals), Patiala Division, Patiala, which was allowed, and the order, passed by the Chief Electrical Inspector, was set aside.

Counsel for the petitioner contends that the finding, returned by the Chief Electrical Inspector that consumption of electricity had increased in comparison to the corresponding period for the years 1999, 2000 and 2001, has not been reversed by the appellate authority. It is argued that without reversing the aforementioned finding, the appellate authority could not have accepted the appeal. It is further contended that the supplementary demand could not have been raised by adding an imaginary amount and could only have been raised, if the meter was found to be defective or slow.

As no such finding has been recorded by the appellate authority, the demand raised, as also the impugned order are illegal and should, therefore, be set aside.

Counsel for the respondent-board, on the other hand, submits that the appeal, filed under Section 26(6) of the Act, before the Chief Electrical Inspector, was not maintainable. An appeal lies under Section 26 (6) of the Act, where a meter is defective or faulty. In the present case, there was no defect or fault in the meter. It is further submitted that the appellate authority rightly set aside the Chief Electrical Inspector's order, as the additional demand was raised by applying an error factor, as prescribed by rules and the regulations.

We have heard learned counsel for the parties, and perused the paper book, as also the impugned order.

The Chief Electrical Inspector's order has been set aside on the ground that blue CT wire was disconnected and, therefore, the electricity meter was recording incorrect consumption. The Chief Electrical Inspector, while accepting that the blue wire was disconnected, held that the consumption pattern of three preceding years disclosed that consumption for the disputed period was higher than the preceding period and the additional demand was, therefore, not justified. A relevant extract from the order, passed by the Chief Electrical Inspector, reads as follows :-

“ That on the scrutiny of the consumption record, it is found that consumption during the disputed period was 62,446 units which was enhanced to 92,683 units. On comparison of the consumption data of the corresponding

period of the year 1999, 2000 and 2001, it was seen that the consumption was 38,674 units, 37,404 units and 59,181 units respectively which is even less than the original consumption shown during the disputed period. As such, the supplementary demand on the basis of checking dated 3.6.2002 is not justified.”

The appellate authority, however, chose not to assign any reasons for reversing the aforementioned finding, and observed as follows :-

“..... Logically, if more units have been consumed later on what has been recorded because of disconnection of one blue wire, the difference of those units is to be recovered from the consumer only.....”

We fail to comprehend the relevance of the above observations. These general observations do not address or deal with the conclusions, recorded by the Chief Electrical Inspector. The appellate authority should have assigned reasons and referred to some rules, regulations or circulars to justify its order. We are, therefore, of the considered opinion that as the impugned order does not assign any cogent or valid reason for setting aside the order, passed by the Chief Electrical Inspector, it would be appropriate to remit the matter to the appellate authority. In addition, the assertion, put-forth by counsel for the respondents that the appeal, filed before the Chief Electrical Inspector, under Section 26(6) of the Act, was not maintainable, is a significant point, touching upon the jurisdiction of the Chief Electrical Inspector. However, as we propose to remit the matter to the appellate authority, it would be appropriate that this question be also decided by the said authority, as it would entail adjudication of the status of the electricity

meter, a question of fact.

Consequently, the present writ petition is accepted, the order, dated 25.8.2006, passed by the Commissioner (Appeals), Patiala Division Patiala, is set aside and the matter is remitted to the said authority to decide the appeal afresh, in accordance with law, within a period of six weeks from the receipt of a certified copy of this order.

**(RAJIVE BHALLA)
JUDGE**

**(UMA NATH SINGH)
JUDGE**

**November 15, 2007
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